IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 9TH OCTOBER 2007 / 17TH ASWINA 1929

WP(C).No. 21576 of 2007(R)

LAR.1250/1988 of I ADDL.SUB COURT,ERNAKULAM

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PETITIONERS/DECREE HOLDERS:

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1. MARIYUMMA, AGED 50 YEARS,
D/O. LATE AHAMMAD, ELAVAKKAT, RESIDING AT
PARUTHAPARAMBIL, KAKKANADU, THRIKKAKARA.

2. VAHID, AGED 48 YEARS,
S/O. LATE AHAMMAD, ELAVAKKAT, RESIDING AT
PARUTHAPARAMBIL, KAKKANADU, THRIKKAKARA.

3. ABDUL RAHIMAN, AGED 46 YEARS,
S/O. LATE AHAMMAD, ELAVAKKAT, RESIDING AT
PARUTHAPARAMBIL, KAKKANADU, THRIKKAKARA.

4. SUHARA, AGED 43 YEARS,
D/O. LATE AHAMMAD, ELAVAKKAT, RESIDING AT
PARUTHAPARAMBIL, KAKKANADU, THRIKKAKARA.

BY ADV. SRI.K.V.JAYACHANDRAN
SRI.RAJU V.MATHEW

RESPONDENTS/JUDGMENT DEBTOR:

KERALA STATE,
REPRESENTED BY THE DISTRICT COLLECTOR, ERNAKULAM.

BY GOVERNMENT PLEADER SMT. R. BINDHU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 21576/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE WRITTEN STATEMENT BY THE RESPONDENT IN OS NO. 329/04 OF THE IST ADDL. SUB COURT, ERNAKULAM.

EXT.P2. COPY OF THE CHEQUE APPLICATION DT. 30/3/06 OF SUB COURT, ERNAKULAM.

EXT.P3. COPY OF THE ORDER DT. 23/6/06 IN IA NO. 2028/06 IN OS NO. 329/06 IN SUB COURT, ERNAKULAM.

EXT.P4. COPY OF THE ORDER DT. 26/8/06 IN CA NO. 472/05-06 IN EP NO. 69/98 IN LAR NO. 1250/88 IN SUB COURT, ERNAKULAM.

RESPONDENT'S EXHIBITS **NIL.**

True copy

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M.N.KRISHNAN, J

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W.P.(C) No. 21576 OF 2007

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Dated this the 9th day of October 2007

JUDGMENT

This writ petition is filed to issue a writ of mandamus and to quash Ext.P4 and allow Ext.P2 cheque application granting cheque as prayed for. Petitioners are the claimants in a land acquisition reference and they have been awarded compensation by the court. In execution of the award, they moved an application for sale of the property belonging to the Government and it was allowed and later confirmed. Meanwhile the Government have deposited the amount and the claimants are satisfied with the amount which they are entitled in law. They have filed an application for cheque. But, the court below dismissed it on the ground that they cannot have both. Now the matter has reached a situation where some orders have to be passed in order to safe guard the interest of the Government as well as that of the claimants. Claimants have no objection in setting aside the sale and they are prepared to relinquish their right which they have obtained under the sale and that they promise that they will never put it into execution. I am also informed that the sale certificate has been obtained more than a year

back and so that possession cannot be handed over to the claimants. Since they have voluntarily relinquished their right over the property and as it is not desirable to have a sale of Government property, invoking the inherent power and to do substantial justice to the parties. I set aside the sale and thereby declare that the person who had bid the property in auction does not have any title, right or possession over the property bid in auction and at the same time I permit them to withdraw the amount that is deposited by the Government in view of the satisfaction of the award passed by the land acquisition court.

Writ petition is disposed of accordingly.

M.N.KRISHNAN, JUDGE

Cdp/-